

Office of the Secretary of Defense

§ 238.6

to allowing access to military installations for production.

§ 238.4 Policy.

It is DoD policy that:

(a) DoD assistance may be provided to an entertainment media production, to include fictional portrayals, when cooperation of the producers with the Department of Defense benefits the Department of Defense, or when such cooperation would be in the best interest of the Nation based on whether the production:

(1) Presents a reasonably realistic depiction of the Military Services and the Department of Defense, including Service members, civilian personnel, events, missions, assets, and policies;

(2) Is informational and considered likely to contribute to public understanding of the Military Services and the Department of Defense; or

(3) May benefit Military Service recruiting and retention programs.

(b) DoD assistance to an entertainment-oriented media production will not deviate from established DoD safety and environmental standards, nor will it impair the operational readiness of the Military Services. Diversion of equipment, personnel, and material resources will be kept to a minimum.

(c) The production company will reimburse the Government for any expenses incurred as a result of DoD assistance rendered in accordance with the procedures in this part.

(d) Official activities of Service personnel in assisting the production; use of official DoD property, facilities, and material; and employment of Service members in an off-duty, non-official status will be in accordance with the procedures in this part.

(e) Footage shot with DoD assistance and official DoD footage released for a specific production will not be reused for or sold to other productions without Department of Defense approval.

§ 238.5 Responsibilities.

(a) The Assistant to the Secretary of Defense for Public Affairs (ATSD(PA)) will serve as the sole authority for approving DoD assistance, including DoD involvement in marketing and publicity, to non-Government entertainment-oriented media. The ATSD(PA)

will make DoD commitments, in consultation with the Heads of the Military Components, only after:

(1) The script, treatment, or narrative description is found to qualify in accordance with the general principles in § 238.4(a).

(2) The support requested is determined to be feasible.

(3) For episodic television, motion pictures, and other nondocumentary entertainment media productions, the producer has an acceptable public exhibition agreement with a recognized exhibition entity (*i.e.*, studio or network), and the capability to complete the production (*i.e.*, completion bond or other industry-recognized guarantor of completion, such as the commitment of a major studio or other source of financial commitment). For documentaries, the producer has indicated a clear capability to complete the production.

(b) The Heads of the Military Components will develop procedures for implementing this part and will ensure that the requirements of this part are met.

§ 238.6 Procedures.

(a) *General.* (1) The producer will be required to sign a written Production Assistance Agreement (see appendices A and B of this part for sample documents), explaining the terms under which DoD's production assistance is provided, with the designee of the Assistant to the Secretary of Defense for Public Affairs, and may be required to post advance payment or a letter of credit issued by a recognized financial institution to cover the estimated costs before receiving DoD assistance.

(2) Official activities of Service members in assisting the production must be within the scope of normal military activities. On-duty service members and DoD civilians are prohibited from serving as actors, such as by speaking filmmaker-invented, or scripted dialogue, unless approved in writing by the ATSD(PA) or his or her designee. With the exception of assigned project officer(s) and technical advisor(s), Service members and DoD civilians will not be assigned to perform functions outside the scope of their normal duties.